



BILLING CODE: 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

C-351-844

### Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from Brazil: Final Affirmative Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain cold-rolled steel flat products (cold-rolled steel, or CRS) from Brazil. For information on the estimated subsidy rates, *see* the “Final Determination” section of this notice. The period of investigation is January 1, 2014, through December 31, 2014.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin, Nicholas Czajkowski, or Lana Nigro, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6478, (202) 482-1395, and (202) 482-1779, respectively.

### SUPPLEMENTARY INFORMATION:

#### **Background**

The Department published the *Preliminary Determination* on December 22, 2015.<sup>1</sup> A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final

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<sup>1</sup> *See Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From Brazil: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination Preliminary Determination*, 80 FR 79562 (December 22, 2015) (*Preliminary Determination*).

determination, may be found in the Issues and Decision Memorandum.<sup>2</sup> The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

### **Scope Comments**

In accordance with the Preliminary Scope Determination,<sup>3</sup> the Department set aside a period of time for parties to address scope issues in case briefs or other written comments on scope issues.

For a summary of the product coverage comments and rebuttal responses submitted to the records of the cold-rolled steel investigations, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.<sup>4</sup> The Final Scope Decision Memorandum is incorporated by, and hereby adopted by, this notice.

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<sup>2</sup> See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from Brazil," dated concurrently with this determination (Final Decision Memorandum) and hereby adopted by this notice.

<sup>3</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Cold-Rolled Steel Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations," dated February 29, 2016.

<sup>4</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Cold-Rolled Steel Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: "Final Scope Comments Decision Memorandum," dated May 16, 2016.

## **Scope of the Investigation**

The products covered by this investigation are cold-rolled steel flat products from Brazil. For a complete description of the scope of this investigation, *see* the “Scope of the Investigation,” attached to this notice at Appendix I.

## **Analysis of Subsidy Programs and Comments Received**

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

## **Use of Adverse Facts Available**

In making this final determination, the Department relied, in part, on facts available and, because the Government of Brazil and the respondent companies did not act to the best of their abilities in responding to the Department’s requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.<sup>5</sup> Specifically, we applied facts available, with adverse inferences, for the Reduction of Tax on Industrialized Products for Machines and Equipment, the BNDES FINAME Loan program, and the Ex-Tarifário program, in accordance with section 776(a) and (b) of the Tariff Act of 1930, as amended, (the Act). For further information, *see* the section “Use of Adverse Facts Available” in the accompanying Final Decision Memorandum.

## **Changes Since the Preliminary Determination**

Based on our analysis of the comments received from parties, and the minor corrections presented and additional items discovered at verification, we made certain changes to the

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<sup>5</sup> *See* sections 776(a) and (b) of the Act.

respondents' subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

### **Final Determination**

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for Usinas Siderurgicas de Minas Gerais S.A. (Usiminas) and Companhia Siderurgica Nacional (CSN), the exporters/producers of subject merchandise selected for individual examination in this investigation.

In accordance with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an “all others” rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as any rates based entirely on facts otherwise available, pursuant to section 776 of the Act. Neither of the respondents' rates was zero or *de minimis* or based entirely on facts otherwise available. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we did not not calculate the “all-others” rate by weight averaging the rates of the two individually investigated respondents using their actual export sales data, because doing so risks disclosure of proprietary information. Instead, we calculated the all-others rate using the simple average of the respondents' calculated rates.<sup>6</sup> The estimated countervailable subsidy rates are as follows:

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<sup>6</sup> *See* Memorandum to Dana S. Mermelstein, Program Manager, AD/CVD Operations, Office I, “Final Affirmative Countervailing Duty Determination: Cold-Rolled Steel Flat Products from Brazil; Calculation of the All Others Rate for the Final Determination in the Countervailing Duty Investigation of Cold-Rolled Steel Flat Products from Brazil” dated concurrently with this notice.

Company	Subsidy Rate
Companhia Siderurgica Nacional (CSN)	11.31 percent
Usinas Siderurgicas de Minas Gerais S.A. (Usiminas)	11.09 percent
All Others	11.20 percent

### **Continuation of Suspension of Liquidation**

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of cold-rolled steel from Brazil, that were entered, or withdrawn from warehouse, for consumption on or after December 22, 2015, the date of the publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty (CVD) purposes for subject merchandise entered, or withdrawn from warehouse, on or after April 20, 2016, but to continue the suspension of liquidation of all entries from December 22, 2015 through April 19, 2016.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

## **ITC Notification**

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

## **Notification Regarding Administrative Protective Orders**

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: July 20, 2016.

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

## Appendix I

### Scope of the Investigation

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement ("width") of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been "worked after rolling" (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels;<sup>1</sup>
- Tool steels;<sup>2</sup>
- Silico-manganese steel;<sup>3</sup>
- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in *Grain-Oriented Electrical Steel From Germany, Japan, and Poland*.<sup>4</sup>

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<sup>1</sup> Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

<sup>2</sup> Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

<sup>3</sup> Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

<sup>4</sup> *Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances*, 79 Fed. Reg. 42,501,



- Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan*.<sup>5</sup>

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

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42,503 (Dep't of Commerce, July 22, 2014). This determination defines grain-oriented electrical steel as “a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths.”

<sup>5</sup> *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders*, 79 Fed. Reg. 71,741, 71,741-42 (Dep't of Commerce, Dec. 3, 2014). The orders define NOES as “cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term ‘substantially equal’ means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.”

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
  - Issues
- II. Background
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  - B. Period of Investigation
- III. Scope of the Investigation
- IV. Use of Adverse Facts Available
  - Subsidies Valuation
    - A. Allocation Period
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- V. Interest Rates Benchmarks and Discount Rates
- VI. Analysis of Programs
  - A. Programs Determined To Be Countervailable
  - B. Program Determined To Be Not Countervailable
  - C. Programs Determined To Be Not Used, or Not to Confer a Measurable Benefit, During the POI
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- VII. Analysis of Comments
  - Comment 1: Whether to Apply AFA to both the GOB and Respondents for the Reduction of IPI for Machines and Equipment Program
  - Comment 2: Whether the Reduction of IPI for Machines and Equipment Program is Countervailable
  - Comment 3: Whether to Apply AFA for the Ex-Tarifário Program
  - Comment 4: Whether Ex-Tarifário is *De Facto* Specific
  - Comment 5: Whether Ex-Tarifário Provides a Financial Contribution
  - Comment 6: Whether the FINAME Loan Program is Specific
  - Comment 7: Whether to Apply AFA to Determine the Benefit of the FINAME Program
  - Comment 8: Whether to Re-Calculate the FINAME Program for Usiminas
  - Comment 9: Whether to Use a Company-Specific Interest Rate Benchmark for the FINAME Loan Program
  - Comment 10: Whether the Integrated Drawback Scheme is Countervailable
  - Comment 11: Whether Usiminas Received a Benefit from the Integrated Drawback Scheme
  - Comment 12: Whether Reintegra is Countervailable
  - Comment 13: Whether to Recalculate the Reintegra Subsidy Rate
  - Comment 14: Whether CSN Applied For/Used the Reintegra Program During the POI
  - Comment 15: Whether the Exemption of Payroll Tax is Countervailable
  - Comment 16: Whether Subsidies Provided to UMSA should be Attributed to Usiminas
  - Comment 17: Whether the Economic Subvention to National Innovation Program is not Countervailable
  - Comment 18: Whether FINEP's Economic Subvention Program has not Conferred a

Measurable Benefit

Comment 19: Whether the Bahia State Industrial Development and Economic Integration Program (Desenvolve) is *De Jure* specific

Comment 20: Whether the GOB's References to Websites Constitute a Full Response

VIII. Recommendation

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